IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

MONDAY, THE 2ND JULY 2007 / 11TH ASHADHA 1929

WP(C).No. 5160 of 2007(L)

PETITIONER:

KOZHIKODE CORPORATION,
REPRESENTED BY ITS SECRETARY, KOZHIKODE.

BY ADV. SRI.P.V.KUNHIKRISHNAN,SC,KOZHIKODE CORP

RESPONDENTS:
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1. OMBUDSMAN FOR LOCAL SELF GOVERNMENT INSTITUTIONS, THIRUVANANTHAPURAM.

2. VELAYUDHAN,
VAYANAPADIKKAL HOUSE, KARAPARAMBA P.O.,KOZHIKODE.

3. NAMBUNNADATH SAMY,
II/373, "SREELAKSHMI", PERUNTHARVAYALNILAM VEEDU,
P.O. KARAPARAMBA, KOZHIKODE.

4. VALIYAPOZHIYIL V.P. DAMODARAN,
II 242 F, "SAIGEETHA", PERUTHARVAYALNILAM VEEDU,
P.O. KARAPARAMBA, KOZHIKODE.

5. A.P. VEDASS,
ALLACHIPARAMBA, II/196A, PERUTHARVAYALNILAM VEEDU,
P.O. KARAPARAMBA, KOZHIKODE.

6. REVENUE DIVISIONAL OFFICER, KOZHIKODE.

7. DISTRICT COLLECTOR, KOZHIKODE.

BY ADV. SRI.M.P.SREEKRISHNAN
SRI.THOMAS ANTONY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 02/07/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. M. JOSEPH, J.

W.P.C. NO. 5160 OF 2007 L

Dated this the 2nd July, 2007

JUDGMENT

Petitioner Corporation challenges Ext.P1 Order passed by the Ombudsman. Ext.P1 came to be passed on a complaint given by the second respondent before him. The complaint apparently was that the second respondent was residing in his plot for over fifty years and the surrounding occupants have started occupying the northern side of his plot after 1988. As revealed from the Order, the further complaint was that these occupants have indiscreetly filled the low-lying paddy field for the last several years resulting in the petitioner's compound level becoming lower than the others and the entire compound and even inside the house is flooded during rainy season. The Ombudsman has directed the petitioner Corporation if the private owners are not inclined to give the consent to lay the pipe, steps should be taken to acquire the land required for

construction of an open drainage. It is further directed that if any action is taken in that direction, it should be completed before the next rainy season.

2. I have heard the learned counsel appearing for the parties. Learned counsel for the Corporation would submit that the Ombudsman over-stepped his limits and this is a matter which should engage the attention of the Ward Sabha and the direction to take action within a time limit is unsustainable. The fourth respondent is the neighbour of the second respondent against whom definite allegation of raising the lands is raised. Counsel submits that the fourth respondent has a suggestion. Counsel for second respondent submits that as far as the second respondent is concerned, constructions were made by his neighbours which resulted in the present situation. He would point out that in fact the second respondent had approached the Corporation directly and it is only after there was no response as

expected, that the second respondent approached the Ombudsman. In such circumstances, the Writ Petition is disposed of as follows:

Petitioner will cause an inspection to be conducted by an Authorised Officer of the land in question. Thereafter, after getting the report from the said Officer, the petitioner will hear respondents 2 to 5. After hearing them, if a solution is forthcoming which does not require acquisition of any land, the petitioner will take an appropriate decision in accordance with law. The said process shall be completed within a period of ten weeks from the date of receipt of a copy of this Judgment. If any controversy arises, then, as submitted by petitioner, petitioner will place the matter before the concerned Ward Sabha. In view of the fact that the counsel for petitioner does not dispute the fact that there is some genuineness in the grievance of the second respondent, a decision will be taken as

soon as possible, so that the complaint of the second respondent in relation to his property is resolved. Ext.P1 will stand modified as indicated above.

K. M. JOSEPH, JUDGE

kbk.